LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6678
BILL NUMBER: HB 1458

NOTE PREPARED: Feb 21, 2003
BILL AMENDED: Feb 19, 2003

SUBJECT: Medicaid Prescription Drug Waiver.

FIRST AUTHOR: Rep. Brown C
FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED:
GENERAL
X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: (Amended) This bill provides that prior authorization is not required for a single source drug that is newly approved by the federal Food and Drug Administration (FDA) while the Drug Utilization Review Board (Board) is determining if the drug should be on the preferred drug list. The bill allows the Office of Medicaid Policy and Planning (OMPP) to add a drug that has been approved by the FDA to the preferred drug list without prior approval from the Board. It also permits the Board to add a drug that has been approved by the FDA to the preferred drug list. (Current law allows: (1) OMPP to add only new single source drugs to the preferred drug list without prior approval of the Board; and (2) the Board to add only new single source drugs to the preferred drug list.). The bill allows the Office of Medicaid Policy and Planning to limit access to prescription drugs for prescription drug program recipients to prevent fraud and inappropriate utilization. It makes cross references.

Effective Date: (Amended) Upon passage; July 1, 2003.

Explanation of State Expenditures: (Revised) This bill would require OMPP to provide any new single source drug that is newly approved by the FDA without restriction until the Board makes a determination to exclude the drug from the PDL. If the Board makes a determination to include the drug on the PDL, it would continue to be provided without prior authorization. (Currently, the Board has 60 days to determine whether to include a new single source drug on the PDL). The fiscal impact of this provision would be dependent upon individual circumstances surrounding a new single source drug.

The bill also requires the Board to actively exclude a drug from the PDL, rather than determine which drugs are to be included on the list.

The bill also addresses the issue of prior authorization for mental health drugs. Current law requires that all drugs prescribed for the treatment of mental illness must be included on the Medicaid preferred drug list (PDL); if a drug is included on this list, it is not subject to prior authorization. Current law allows some circumstances under which the Office of Medicaid Policy and Planning may require prior authorization for a drug on the PDL. One of those special circumstances is to permit reimbursement for a medically necessary brand name drug that is subject to generic substitution under I.C.16-42-22-10. Currently, when a pharmacist fills a prescription written for a recipient of Medicaid, CHIP, or Medicare, if a generic equivalent is available and is cheaper, the generic must be substituted and the recipient told of the substitution. The pharmacist may only fill the prescription with the brand name drug if the provider has hand-written the words "Brand Medically Necessary" on the prescription. A Brand Medically Necessary prescription requires prior authorization and the provider must explain why the branded drug is necessary. This bill references the code specifying that mental health drugs are not subject to prior authorization. OMPP reports that mental health drugs are in practice already excluded from prior authorization under this provision; no fiscal impact appears to be associated with this change.

The bill also allows OMPP to add any drug that has been approved by the federal Food and Drug Administration (FDA) to the PDL without the approval of the Drug Utilization Review Board, which is charged with the research, development, and approval of the PDL. The bill also allows the Board to add any FDA-approved drug to the PDL. Current statute allows the addition of a new single source drug to the list in either of these two circumstances. This provision allows OMPP to bypass the Board approval and allows the Board to bypass the recommendations of the Therapeutics Committee. (The Therapeutics Committee was established to provide the Board with additional clinical expertise for the research and development of the PDL.) This provision appears to have no significant fiscal impact since the language is permissive.

The bill specifies that the Office may not implement a Medicaid Pharmacy Plus waiver that limits access to prescription drugs unless it is to prevent fraud, abuse, waste, overutilization of prescription drugs or inappropriate utilization of prescription drugs. The bill further specifies that access may be limited to the extent that restrictions were in place on the data of enactment of the Act. This provision will preclude the Office of Medicaid Policy and Planning from using program controls similar to those used in the Medicaid Program, such as the preferred drug list, for the Hoosier Rx prescription drug program and the Pharmacy Plus Medicaid 1115 Demonstration Waiver application. The waiver application assumes that the Hoosier Rx program would be subsumed by the waiver prescription drug program. This bill may require OMPP to operate a separate, slightly different pharmacy benefit management program for the Hoosier Rx Program. It is nor clear if this provision would delay the implementation of the waiver program by requiring an amendment immediately.

Hoosier Rx participants receive a 50% reduction in the amount owed for a prescription at the point of sale. The participants recognize savings as a result of being charged the Medicaid cost of the prescription; any additional savings achieved by the application of cost saving measures such as the Medicaid Preferred Drug List are savings recognized immediately by the individual as well as the Hoosier Rx program and the Prescription Drug Waiver Program.

Expenditures in the Medicaid program are shared, with about 62% of program expenditures reimbursed by the federal government and 38% provided by the state.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Family and Social Services Administration, Office of Medicaid Policy and Planning.

Local Agencies Affected:

Information Sources: Amy Kruzan, Legislative Liaison for the Family and Social Services Administration, (317)-232-1149. Indiana Hoosier Rx Medicaid, Section 1115 Demonstration Waiver Application at: http://cms.hhs.gov/medicaid/1115/in1115ihrx.asp

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